ML/P

App F IX-4

*Previous References*
LR 16-95 Sl 1-15
Genl 65-38 Sl 63, 66.

*Letter References*

193 8.
( Genl )

Genl File No 65-38
Serial Nos. 91, 165

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos* two

Part B for August 1939

SUBJECT.

Resumption of municipal property by transfer and payment of compensation, for such land when required for public purposes.

Sl 165) No. The Commissioner Kalyan
No L 2303 of 30 8.39

WD 0418—GPB—22,500—20-8-38

States that Govt. is concerned for the _____, and that the terms of arrangement will be determined according to the circumstances of each case

No
28.9.39

G. R. S. APP F III—1]

GENERAL AND REVENUE SECRETARIAT

(Ldg)

NOTES

Gnl File No. 65 38

FILE HEADING

Sale of grant of municipal lands

FROM

The Comptroller & Govt

No 753 L A D Dated 18/19 - 4 - 1939 Received

| Diary No 5686 | Enclos. | Spare copies | Serial No 91 |
|---|---|---|---|

BRIEF ABSTRACT OF LETTER

Enquiries of orders conveying sanction of sale of Govt lands to Depts of Govt are to be taken as exemptions to G.O dated 2.2.1900 laying down that municipalities have no claim for compensation on account of land required by Govt for public purposes

NOTES AND ORDERS.

(H)*

*(B)

1 Subs for perusal with the previous reference quoted in the letter

2 The copy of the G.O of 1900 quoted by the comptroller is also put up for perusal

3 It is seen from that G.O that Govt have refused to recognize any claim on the part of municipalities for compensation on account of lands required for public purposes in the case of the Municipa

NOTES—First Sheet

WD 0383—GPB—8,750—25-1-38

Sale of municipal land

Land File No 65 of 193 | General and Revenue Secretariat

Commissioner, Bangalore City, primarily, and all other municipalities in the State as per memo forwarding the G.O.

4 It is stated (1) that the claim is inconsistent with the conditions upon which both the Municipal Commissioners hold to municipal land, and

(2) that the claim ignores the fact that lands required for extensions of the city have been, and are being freely alienated by Govt in favour of the M.C. Commrs.

5th Whether this G.O has been in any way affected by the subsequent passing of the Act relating to the distribution of local bodies is a question for consideration

12/5/39 The original file leading to the issue of G.O dated 2.2.1900 is put up. This order which is executive in nature has to be construed as being superseded by the provisions of the Municipal Act of 1906 & Later on by the Mysore M.C. Act of 1933

The relevant existing bearing on the subject are as follows:—

1) Sec 53 (3) of the C.M.C. Act
2) Sec 50 (3) of the T.M. Act
3) Sec 46 (2) of the M.M. Act

According to these sections

Salary and Loans



Serial No.

it shall be competent to Govt from time to time by notification to resume any property vested or vesting in the MC be under the section on such terms as Govt may determine. Each case may therefore to be decided on its merits

5 The point for consideration is whether the Govt should purchase for a consideration a land located within the MC limits required for any public purpose e.g. to build a police station etc. The answer to this depends on the circs of each case

6) In the case of lands made over or transferred to the MC Council by Govt by a notn, the MC has to be treated as a trustee having control over the land and if such a land is required by Govt for any public purpose it is but right that the Govt may resume such land under the provisions referred to above, without any payment

In the case of lands which the MC has acquired under the provisions of the L.A. Act, it is proper that the Govt should reimburse the

Govt which were transferred by Govt to the MC free of cost should be resumed by Govt free of cost when the Govt requires the same for any public purpose

Sale of Municipal Lands

5634

NL File No. 65 of 1938 General and Revenue Secretariat. Serial No.

entity to the extent of the outlay incurred by them for in the course of the acquisition proceedings

In any case, it seems that the sale of a land belonging to the Municipality required by Govt in any respect should not be encouraged. It can only be acquired by transfer to Govt who may take it at once for the required purpose. The NL Act ought to show no such consideration besides the statutory provision having regard to the fact that Govt have been meeting large grantsamounts to the public for improvement of the locality

It appears, the Committee will be informed that the G.O. dated 2.2.1900 may be considered as having been superseded by the statutory powers quoted above

It is a point for orders, if in view of what is stated above, an enquiry should be made as to the title of the land - whether it belongs to the Municipality or Govt - if so, whether it was acquired by the Municipality from their own amount.

The land raised Rs 1000 under the G.O. dated 2.2.1900 Flag B
for 17.5 Cy - surrendered by the Provisions of the Municipal Act.

7110 5631

General and Revenue Secretariat — File No 62 of 1938-39 — [App F III-2

Serial No.

of 1906 and rules on by the provisions of the Municipal Acts of 1933 has to be considered and I submit, your Excellency may also be considered on the point

Legy A.G.)

2/1939-

15) For favour of remarks

2/1939-

Govt Legy Dept N.C)

15) The G.O. of 2nd Feb 1939 is in the nature of an executive order and must be deemed to have been enforced by the provisions of Section 50 Municipalities Act 1906 and later by Municipalities Acts of 1933. Under Section 50(3) of the Mil. Regn of 1906, the Govt had the right to resume any property vested in Govt or Municipal Council under such terms as the Govt might determine. An identical provision is also found in Section 53(3) of City Municipalities Act, Section 50(3) of the Town Municipalities Act and Section 46(2) of the Minor Municipalities Act. It is thus open to Govt to resume any municipal land required for public purposes. Whether any compensation should or should not be paid by the Municipality

Note—Contn. Sheet.

Re question of payment for the acquisition or taking over lands by several Departments of Govt for public purposes

File No. 65 of 1938-39 | General and Revenue Secretariat. | Serial No.

has necessarily to be determined according to the circumstances of each case, as explained in paras 9 and 10 supra

BJR 11.7.39

Asst Secy 15.7.39

17) Submitted for orders.

for (i) The Comptroller on reply to his letter dated 11.7.39 — 18th April 1939 may be informed of the legal opinion obtained on para 16

2 14/7/-

Law Dept)

SECY LAW DEPT 15 JULY 1939 GOVT OF MYSORE

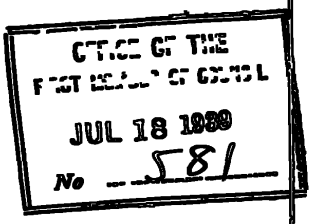
19) The G O of 1900 must be deemed to have been superseded by the 53(3) of the City Municipalities Act of 1933 & the similar provisions in the other Acts There was a similar section in the Act of 1906 also By this substantive Govt is empowered to resume Municipal property on such terms as the Govt determine Even the G O of 1900 did not take out payment of Compensation It only means that the Municipality cannot claim as a matter of right & it is left to the discretion of the Govt The same principle is embodied in this Act - The terms of exemption will

Re question of payment for the acquisition of land in Kolar Gold Fields for public purposes.

General and Revenue Secretariat — File No 65 of 193 — [App F III–2

Serial No.

A



be determined by the Govt. Price terms will be reasonable. If the Municipality has purchased the property or put up buildings etc, the expenditure it would be open to pay if the land originally belonged to the Govt. does not in the Municipality it can be resumed without Compensation

2nd Member) Ce
Flag A Fair Fee 15/7/39

2nd Ag 17.7.39

1st Member) Ce 17/7/39

Secy 20/7/39

Ce 20/7

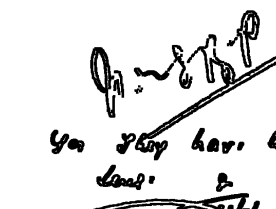
A draft reply to the Comptroller is put up for approval. It is for consideration of copies of the reply should be forwarded to the D.C's of Bgl & the Mg Comm: Bangalore & the Provisional City Officer for information

The draft letter to the Comptroller is for approval 21/7/39

(Law Secy)

Please type as usual

Ce 21/7




You may have to be [illegible]

Noted in the Diary of 21/7/39

Secy

re Question of payment for the acquisition or sale of Mal. lands to Several Depts of Govt for public purposes.

Mal File No. 65 of 1938

General and Revenue Secretariat

Serial No.

The draft as revised has been typed and is submitted for approval

25/8/39

25/8/39

26/8/39

To the Comptroller & Govt — 165

No d 2303 of 30.8.39

Informs him as per order in para 1/

Typing Section

31-8-39

Kindly make 6 copies of the letter of 30-8-39 for the purposes of reference in the Secretariat

31/8

Draft Mahal

TYPING SECT. 2 9 AUG. 1939 GEN. & REV SECTT

4/9/39

Rel 65-38-91 8686

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE

SECY LOCAL SELF GOVT
19 APR 1939
GOVT OF MYSORE

No. 253/LMD

*Bangalore, Dated* 18th April *1939*

From

M VIRARAJA URS, Esqr , B A , B L ,
*Comptroller to the Government of*
*His Highness the Maharaja of Mysore,*
*Bangalore*

To

P.H.Krishna Rao Esq., M.A.,
Secretary to Government,
Local Self Government,
Bangalore

Sir,

(H) Adverting to G.O. No.L.6306-309/Ml 65-38-66 dated 6-2-1939 by sanctioning the sale of Davangere Municipality of three bits of Municipal land measuring 22,277 sq yds at six annas per sq yd to the P.W Department for constructing the Police and Provincial Reserve Police Lines and Officers' Quarters at the place, I have the honour to invite your kind reference to G O No 8955-6/L F. dated 2-2-1900 declining to recognise any claim on the part of the municipality for compensation on account of land required for public purposes for reasons explained therein and to request to be informed if this order and other similar G O's conveying sanction of sale of Municipal lands to several departments of Government for similar public purposes are to be taken as exceptions to the G O dated 2-2-1900

I have the honour to be,
Sir,
Your most obedient servant,

M Viraraj a Urs
Comptroller

m/j

Appendix F G—1]

SUBJECT ..

Section Jud
File No. 65-38
Serial No.

*Diary No of letter replied to*

No.

To The Comptroller & Govt

General and Revenue Secretariat

( )

*the* *193*

Sir,

Or the reference to your letter no 753 L.A.D. of 18th April 1939, requesting to be informed if G.O. no. L 6306-9/Jud 65-38-66 of 6.2.39 and other similar orders Govt. conveying sanction to the sale of municipal lands to several departments of Govt. are to be taken as exceptions to G.O. no 8955-6/L.7 of 2.2.1900 declining to recognize any claim on the part of a municipality for compensation

Date of issue

Signed by

List of enclosures.

Copied by

Examined by

On account of land required
for public purposes, I am
directed to state that the G.O.
of 1900 must be deemed to
have been superseded by Sec 50 (3) of the Mysore Municipal Act (1906) and
subsection 3 of Section 58 Similar provisions are embodied in
of the City Municipalities Act of 1933,
subsection 3 of Section 58
of the Town Municipalities Act of 1933,
and subsection 2 of Section 46
of the Minor Municipalities Act of 1933.
I am ~~also~~ to observe that there was a
similar provision in the Municipal Act of 1906,
and
According to the provisions of
2. ~~the~~ of the Acts cited above, the
Govt. is empowered to resume municipal
property on such terms as it may
determine. Even the G.O. of 1900 did not
~~rule out payment of compensation,~~
~~only stated~~
~~but only recorded it as~~ that the
Municipalities of Cannot claim Compen-
sation, as a matter of right, and did not rule out
payment of compensation. In granting Compensation or Premium by
~~but the principle of Compensation~~ way of
~~has to be determined and the terms of~~ Compensation to be determined
~~determined is left to the discretion~~ reasonably
of Government, ~~by them~~ according by the Govt.
~~of resumption will be determined.~~ according to the
circumstances of the Case

Thanking

Yours faithfully

from Secretary to Govt. Law Dept.

3-1-1 (No. L 2303) / ML 66-38-165
dt 30/8/1939

The Comptroller to Govt ,
Bangalore

Sir,

With reference to your letter No 753/ L A D dated 18th April 1939, requesting to be informed if G O No L 6306-9/Ml 65-38-66 dated 6th February 1939 and other similar orders of Government conveying sanction to the sale of municipal lands to several departments of Government are to be taken as exceptions to G O No 8955-6/L F dated 2nd February 1900 declining to recognize any claim on the part of a Municipal Council for compensation on account of land required for public purposes, I am directed to state that the Government Order of 1900 must be deemed to have been ~~suspended~~ superseded by section 50(3) of the Mysore Municipal Regulation (1906) and similar provisions are embodied in sub-section 3 of section 53 of the City Municipalities Act of 1933, sub-section 3 of section 50 of the Town Municipalities Act of 1933, and sub-section 2 of section 46 of the Minor Municipalities Act of 1933

2 According to the provisions of the Acts cited above, the Government is empowered to resume municipal property on such terms as it may determine Even the Government Order of 1900 merely stated that the Municipal Council concerned cannot claim compensation as a matter of right, and did not rule out

payment of compensation The grant of compensation or otherwise is left to the discretion of Government and the terms of resumption will be determined reasonably by the Government according to the circumstances of the case

I have etc

Secy to Government,
Law Department

25/8/35

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat.

No L.2303/RD.65-38-165.

*Bangalore, dated* 30th August 1939.

FROM

*The Secretary to the Government of*
*His Highness the Maharaja of Mysore*

To

Law Department.

The Comptroller to Government,
Bangalore.

Sir,

With reference to your letter No.753/L.A.D. dated 18th April 1939, requesting to be informed if Government Order No.L.6306-9/RD.65-38-66 dated 6th February 1939 and other similar orders of Government conveying sanction to the sale of municipal lands to several departments of Government are to be taken as exceptions to Government Order No.8955-6/L.F. dated 2nd February 1900 declining to recognise any claim on the part of a Municipal Council for compensation on account of land required for public purposes, I am directed to state that the Government Order of 1900 must be deemed to have been superseded by section 50(3) of the Mysore Municipal Regulation (1906) and similar provisions are embodied in sub-section 3 of section 53 of the City Municipalities Act of 1933, sub-section 3 of section 50 of the Town Municipalities Act of 1933, and sub-section 2 of the section 46 of the Minor Municipalities Act of 1933.

2. According to the provisions of the Acts cited above, the Government is empowered to resume municipal property on such terms as it may determine. Even the Government Order of 1900 merely stated that the Municipal Council concerned cannot claim compensation, as a matter of right, and did not rule out payment of compensation. The grant of compensation or otherwise is left to the discretion of Government and the terms of resumption will be determined reasonably by the Government according to the circumstances of the case.

I have the honour to be, etc.
(Sd.) C.Subramaniya Aiyer.